BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

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| ROBERT STAMEY, | ) Case No. RULE-01-0010 |
| | ) |
| Appellant, | ) FINDINGS OF FACT, CONCLUSIONS OF |
| | ) LAW AND ORDER OF THE BOARD |
| v. | ) |
| | ) |
| DEPARTMENT OF CORRECTIONS, | ) |
| | ) |
| Respondent. | ) |

## I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and LEANA D. LAMB, Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on November 29, 2001. GERALD L. MORGEN, Vice Chair, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Robert Stamey appeared *pro se*. Art Haro, Human Resource Manager, and Robert Turk, Southwest Area Human Resource Manager, represented Respondent Department of Corrections.

1.3 **Nature of Appeal.** This is an appeal of an alleged violation of WAC 356-15-030(1)(a). Appellant alleges that Respondent unilaterally rejected his request to be allowed to "chit in" at his duty post which requires that he start work early without compensation.

1.4 **Citations Discussed.** WAC 356-30-170; WAC 356-15-030(1)(a).

## II. FINDINGS OF FACT

2.1     Appellant Robert Stamey is a Correctional Officer and permanent employee for Respondent Department of Corrections at the Cedar Creek Corrections Center.  Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC.  Appellant filed a timely appeal with the Personnel Appeals Board on April 30, 2001.

2.2     Respondent requires that Appellant obtain a "chit" prior to reporting to his unit.  Respondent utilizes chits as a method of controlling and accounting for all keys and locks to ensure the safety and security of the institution.  Officers are expected to arrive at the sergeant's office to "chit in" in enough time to arrive at their duty posts and begin work at the start of the shift.  Obtaining the chit takes less than one minute.  The standard operating practice at Cedar Creek Corrections Center is for the sergeant on duty to ensure that officers reporting for work take priority over other business matters.

2.3     Appellant's work shift begins at 9:30 p.m.  Appellant parks his vehicle in a lot approximately 40 yards from his work post and approximately 400 yards from the sergeant's office, where Appellant is required to pick up a chit.  Appellant arrives at the institution at approximately 9:20 p.m. in order to obtain his chit.  Appellant testified that picking up the chit takes a matter of seconds and that occasionally, he also picks up the unit mail.

2.4  On April 24, 2001, Appellant requested that he be allowed to receive his chit at his duty post rather than being required to report to the opposite end of the facility.  Respondent denied Appellant's request.

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2.5    On April 30, 2001, Appellant filed an appeal with this Board.  Appellant alleges that Respondent violated WAC 356-15-030(1)(a) by requiring him to arrive at the institution early to conduct state business without providing him with compensation.

### III.  ARGUMENTS OF THE PARTIES

3.1    Appellant argues that Respondent is violating WAC 356-15-030(1)(a) by requiring that he perform state business prior to the start of his work shift.  Appellant asserts that the time it takes to obtain the chit at the sergeant's office is in excess of the time it would take him to get out of his car and go directly to his work station.  Appellant argues that it takes him approximately two to three minutes to walk from the parking lot to the sergeant's office, that he spends two or three minutes in line to pick up the chit, approximately one minute to get the mail, and two or three minutes to walk to his work post.  Appellant asserts that this constitutes time he is required to work without receiving compensation, and he asks that he be compensated for two-tenths of an hour of overtime pay for each day of duty beginning April 24, 2001.

3.2    Respondent argues that the key exchange process is common practice through out all institutions in the department and does not constitute overtime.  Respondent argues that it is an accepted practice that travel time to the principal work site, as well as post-work duties, is time for which an employee is not compensated.  Respondent argues, therefore, that the key exchange (chit pick up) is comparable to an employee's travel time from home to his/her principal work site.  Respondent argues that the time it takes to get the chit is *de minimis*, that Appellant has failed to meet his burden, and that the appeal should be denied.

### IV.  CONCLUSIONS OF LAW

4.1    The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

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4.2     In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-170).

4.3     WAC 356-15-030(1)(a) outlines the conditions which constitute overtime and reads, "for full-time employees, work in excess of the work shift within the work day." Appellant urges the Board to conclude that the time it takes him to pick up his chit once he arrives at the institution constitutes overtime. Respondent is not required to compensate Appellant for the time it takes him to walk to the sergeant's office. Furthermore, the undisputed facts establish that retrieving the chit takes less than one minute. This time is *de minimis* and does not constitute overtime as defined in WAC 356-15-030(1)(a). Appellant has failed to meet his burden, and the appeal should be denied.

### V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Robert Stamey is denied.

DATED this _____ day of _____, 2002.


                          WASHINGTON STATE PERSONNEL APPEALS BOARD


                          _____
                          Walter T. Hubbard, Chair


                          _____
                          Leana D. Lamb, Member